



*RENEWABLE
ENERGY
PROGRAM*

**CALIFORNIA
ENERGY
COMMISSION**

Volume 2A

NEW RENEWABLE RESOURCES ACCOUNT

Sixth Edition

GUIDEBOOK

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This Guidebook Volume 2A contains general information on how to qualify and apply for funding from the New Renewable Resources Account of the Renewable Resource Trust Fund. For more detailed information on this and other accounts funded through the Renewable Resource Trust Fund, please see the Energy Commission's Policy Report on AB 1890 Renewables Funding. The report (publication number P500-97-002) may be obtained through the California Energy Commission's Publications Office at (916) 654-5200.

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Introduction

Assembly Bill 1890 (AB 1890)¹, enacted on September 23, 1996, provides \$540 million for the support of renewable electricity generation technologies. These funds will be collected from the ratepayers of the three largest investor-owned utilities in California from 1998 through March 31, 2001, to support existing, new, and emerging renewable electricity generation technologies. As part of the requirements of AB 1890, the California Energy Commission submitted a Policy Report² to the Legislature with recommendations for allocating the \$540 million.

Senate Bill 90 (SB 90)³, enacted on October 12, 1997, establishes the **Renewable Resource Trust Fund**, and contains explicit directions for distributing this fund through four distinct accounts: Existing Renewables Resources Account, New Renewable Resources Account, Emerging Renewable Resources Account, and Customer-Side Renewable Resource Purchases Account. Table 1 shows the percentage funding allocations by year.

Table I
Yearly Allocations to Renewable Technologies⁴

Account	1998	1999	2000	2001	Overall	(in millions)
Existing Technologies	57%	49%	41%	33%	45%	\$243
New Technologies	24%	28%	32%	36%	30%	\$162
Emerging Technologies	10%	10%	10%	10%	10%	\$54
Customer-Side	9%	13%	17%	21%	15%	\$81

To assist potential program participants of the Renewable Energy Program in applying for funding from the various accounts within the Program, the Commission developed account-specific *Guidebooks*. These *Guidebooks* are identified as Volumes 1 through 5, with each volume corresponding to an account in the **Renewable Resource Trust Fund**:

- Volume 1 - Existing Renewable Resources Account
- Volume 2 - New Renewable Resources Account
- Volume 3 - Emerging Renewable Resources Account

¹ Chapter 854, Statutes of 1996.

² **Policy Report on AB 1890 Renewables Funding**, published in March 1997, publication number 500-97-002.

³ Chapter 905, Statutes of 1997.

⁴ These percentages apply to \$135 million dollars annually for four years as assumed in the **Policy Report on AB 1890 Renewables Funding**. Due to the fact that \$135 million will not be collected in the early years, it may be necessary to borrow some funds from one account in order to make payments in another account equal to the absolute amounts expected annually. This will only be done if the account from which money is being borrowed is not adversely affected. All funds borrowed will be returned to their appropriate account.

- Volume 4 - Customer Credit Subaccount of the Customer-Side Renewable Resource Purchases Account
- Volume 5 - Consumer Education Subaccount of the Customer-Side Renewable Resource Purchases Account

In addition, the Commission developed the Overall Guidelines, which set forth the administrative and legal requirements necessary to receive or appeal funding awards from the Existing, New and Emerging Accounts and the Customer Credit and Consumer Education Subaccounts.

This *Guidebook*, identified as Volume 2A – *Guidebook for the Renewable Energy Program, New Renewable Resources Account*, addresses the eligibility, program requirements, and funding processes for the New Renewable Resources Account and the public auctions conducted under the account. The *Guidebook* also provides the overall structure for conducting auctions. More detailed information on the auction process will be included in the auction notice (Notice of Auction) prepared and issued prior to an auction. In addition, the Commission may adopt additional guidelines that expand upon the process and procedures for implementing auction results.

Overview Of The New Renewable Resources Account

Thirty percent of the AB 1890 funds, or approximately \$162 million, is allocated to the New Renewable Resources Account, intended to provide support to prospective new renewable electricity generation projects. Participating projects will compete by submitting bids in an auction as described in this volume, to receive a fixed, generation-based production incentive.⁵⁶ The auction will determine winners and losers based upon the simple cents per kilowatt-hour incentive requests in the qualified bids received. Bids will be ranked in order of lowest incentive request to highest. Beginning with the lowest request, bids will be accepted as winners until funds are depleted or all bids have been accepted. The incentive requests and the amount of estimated generation (over five years) in the bids received will be used to determine when or whether funds in the account are fully allocated in this auction.

Winners of the auction become eligible to receive incentives for generation produced and sold during the first five applicable years of operation after a project is developed. Winners must receive approval of their awards from the Energy Commission and proceed through a series of milestones leading to completing construction of their projects and coming on-line as an eligible renewable generator.

Winning projects must come on-line as an eligible renewable generator prior to receiving any incentive payments. Projects that include a fossil-fuel component will not

⁵ The procedures described here will be used for the first and second auctions. Subsequent auctions, if any, may or may not have different procedures.

⁶ The production incentives will be paid in terms of nominal cents/kWh.

be considered to be on-line as an eligible renewable generator until they meet the requirement of using no more than 25 percent fossil fuel in their operation.⁷

After coming on-line, winning projects will provide monthly invoices to the Energy Commission documenting their generation and sale for each month. Winning projects that come on-line prior to receiving their award will submit invoices and receive incentive payments during the first five years after receiving their awards. Winning projects are expected to come on-line as an eligible renewable generator as specified in the applicable Notice of Auction; those who come on-line later than the date specified in the applicable Notice of Auction may have their awards reduced or terminated by the Energy Commission. . In short, late projects will not receive payments beyond five years of their on-line date, but might for some period less than that, and run the risk of receiving reduced payments or no payments at all.

Prospective bidders should note that this bid is for a limited production incentive amount (not to exceed 1.5 cents per kWh) rather than for the entire revenue compensation for a proposed project. Winning projects are expected to sell the electricity they generate for whatever price it can command in the electricity marketplace. Projects are not entitled to incentive payments without proof of electricity generation and sale.

Ancillary aspects of particular projects, such as transmission constraints or capabilities, capacity value, environmental benefits, and reliability benefits will not be considered in bid evaluation nor in payment or nonpayment of production incentives. Bidders must evaluate and rely on the prospects for market valuation of such characteristics, or prospects of having that value reflected through other programs. For example, the Customer-Side Renewable Resource Purchases Account will provide incentives for consumers in California to purchase eligible renewable energy from 1998 through 2001. These incentives may facilitate development of a "green market" in California, decreasing the transaction costs for viable sales of renewable power generated from facilities that come on-line while these incentives are being paid, or in the market that is developed after these incentives end. While bidders may reflect this or other factors in their bids, they should not expect the Energy Commission to consider these ancillary factors in the bid evaluations, incentive payments, or non-payments in this program.

The Energy Commission is not responsible for any costs associated with bid preparation or project construction or operation, including costs of transmission access. Bidders shall not hold the Commission responsible for any consequences of their bids. The Energy Commission reserves the right to cancel or suspend the auction for any reason or no reason at any time prior to the announcement of the auction results. If the auction is cancelled or suspended, the Commission will return any bids, along with a statement indicating when a new auction is expected to be held.

This volume of the guidebook describes the competitive auction; who is eligible to participate; how to submit a bid; what information to include in a bid; how bids will be

⁷ The content of all fossil fuels used, in the aggregate, may not exceed 25 percent of the total energy input of the facility during a given calendar year (Title 18 of CFR, section 292.204 (b)).

evaluated and winners and losers determined; and draft forms to be used in bid preparation and submittal and in post-auction procedures. This information and the draft forms may be expanded upon and revised by the applicable Notice of Auction mailed prior to an auction. Finally, the guidebook provides an explanation of what to expect after an auction for both accepted and rejected bids, including how winning projects will proceed toward coming on-line, and how production incentives will be paid to completed projects. The Commission may adopt additional guidelines that expand upon the process and procedures for implementing auction results.

When Will Bidding Occur

Notice of Auction Will Specify Auction Date

The New Renewable Resource Account funds will be allocated through competitive auctions, the first of which will be held on, or about, March 31, 1998. A second auction will be held on, or about, November 1, 2000. Subsequent auctions may be held as specified by the Energy Commission. The exact date of an auction, or bid due date, will be specified in a Notice of Auction to be issued prior to each auction and subsequent to the adoption of this Guidebook by the Energy Commission. A Notice of Auction will be publicly disseminated at least 30 days prior to the actual auction date (due date for bids), and will specify when bids are due at the Energy Commission, where the bids must be submitted, how the bids must be formatted, and the number of copies to be submitted.

A Notice of Auction will identify the maximum amount of funds to be awarded under the auction and will contain additional administrative information about participation in the auction, such as details on how information contained in the bids will be evaluated, a description of the type of bid bonds which may be submitted and requirements associated with different bid bond instruments (letters of credit, escrow accounts, etc.) and a sample set of documents comprising the Project Award Package or Funding Award. A Notice of Auction may include a form to be returned prior to an auction, indicating a party's intent to bid in the auction.⁸ A Notice of Auction will also identify the dates and locations of any informational or pre-bid workshops which will be held to answer questions from prospective bidders prior to the due date for bids.

All interested bidders are encouraged to attend the pre-bid workshops that are scheduled and prepare questions for discussion at the workshops. These questions may be asked orally at the workshops or submitted in writing to the Energy Commission prior to the workshops. A Notice of Auction will specify precisely where and when such written questions must be submitted. Following the workshops, the Energy Commission will prepare a list of Workshop Questions and Answers which will be publicly disseminated and issued to all prospective bidders. Verbal replies or interpretations will not be binding or official unless subsequently repeated in writing as part of a Workshop Questions and Answers document.

⁸ An indication of intent to bid prior to an auction will help the Energy Commission prepare to evaluate the bids received in a timely fashion.

When Will Results Be Announced?

Results of an auction will be announced within two months after the auction date. During this time, the Energy Commission may request clarifying information from individual bidders.

Announcement of the overall auction results does not guarantee payments to winners. Winners must pass project milestones as described in this Guidebook and the applicable Notice of Auction. Individual funding awards under an auction must be approved by the Energy Commission in a public hearing.

Will There Be More Than One Auction?

If all funds are not allocated in the first auction, or if other funds for this purpose become available, subsequent auctions will be held. As indicated above, a second auction will be held on, or about, November 1, 2000.⁹ Additional auctions may be subsequently held if deemed appropriate based on market conditions, previous auctions, and the availability of funds.

Who is Eligible to Bid

Bidders in an auction must submit bids that refer to an eligible project. An eligible project is any proposed to be built, newly constructed, or repowered renewable electricity generation facility (or portion thereof) meeting the definition of project as set forth in this guidebook and the eligibility criteria set forth below:

- 1) The physical equipment comprising the eligible project must be: a) wholly located within California, or b) a separable improvement or enhancement to an operating existing facility that meets the definition of "in-state renewable electric generation technology" contained in Public Utilities Code 383.5(a).¹⁰
- 2) The eligible project must use an electricity generation technology or fuel source that is renewable as defined in this guide.
- 3) The eligible project must either be:

⁹ This second auction will be funded in whole or in part by funds reallocated from other accounts in the Renewable Resource Trust Fund pursuant to Public Utilities Code section 383.5(g). The actual reallocation of these funds will not take place until after the second auction is held and the Energy Commission determines the amount of funding needed to fully fund winning bids in the auction. This may not be known for six to ten months after the auction is held, because winning projects may drop out, may qualify for an additional incentive, or may have their awards reduced or canceled. In addition, funds may revert back to the New Renewable Resources Account after the auction is held, because of canceled or reduced funding awards under the first auction.

¹⁰ Basically, the definition includes existing projects located outside of California if they were QFs that began selling electricity to California utilities under Standard Offer contract prior to September 26, 1996.

- a) first placed in operation (generating electricity) on or after i) September 26, 1996, for the first scheduled auction, or ii) October 11, 2000, for the second scheduled auction; or
- b) repowered on or after i) September 26, 1996, for the first auction and ii) October 11, 2000, for the second auction, such that at least 80 percent of the fair market value of the project derives from new generation equipment installed as part of the repowering, and the project has no energy being sold under existing Standard Offer 2 or Interim Standard Offer 4 contracts, or negotiated contracts with similar terms that provide above-market fixed energy and/or capacity payments;¹¹ or
- c) a separable improvement to or enhancement of an operating existing facility that was first placed in operation prior to September 26, 1996, such that the proposed incremental generation is contractually available for sale, metered separately than existing generation at the facility, and the project has no energy being sold under a utility contract that provides long-term fixed energy or capacity payments. Any enhancements of fuel source that increase generation at an existing facility, without the construction of a new or repowered, separately metered, generating unit, are not eligible to participate.

In addition, projects that received funding awards under a prior auction may be excluded from participating in a subsequent auction, unless their funding awards have been canceled prior to the subsequent auction as specified in the applicable Notice of Auction.

Winning projects bear the burden of proof and the cost of distinguishing the new generation of the project from any associated existing generation. Projects involving repowers of facilities with existing Standard Offer 2 or Interim Standard Offer 4 contracts, or negotiated contracts with similar terms that provide above-market fixed energy and/or capacity payments may participate in the auction. If such a project is among the winners of the auction, however, they must provide verifiable evidence to the Energy Commission that they are no longer associated with these contracts prior to receiving approval of their awards. Verifiable documentation shall include but not be limited to a written release provided by the bidder that allows Commission staff to independently verify with the utility, without being in violation of any confidentiality agreements, that the disassociation agreement submitted by the bidder is considered final by parties to the agreement. Projects with Standard Offer 1 or Standard Offer 3 contracts, and that meet the other eligibility requirements, may participate in the auction and receive production incentives while remaining in these contracts.

To prevent any project from receiving funds from both the Existing and New accounts, any production incentives that winning projects receive or have received from the

¹¹ Participation in the auction is allowed with these contracts, but winners must terminate the contracts to become eligible for payments.

Existing Renewable Resources Account will be subtracted from any New Renewable Resources Account award they receive.¹² Funds that such projects receive as existing projects are considered to be expended from the Existing Account. Awards from the New Account will be adjusted to reflect these previously received funds, but this adjustment does not imply that Existing Account Funds are being used to support New Projects.

Prospective bidders should also be aware that even though they may be eligible to bid according to the above criteria, they must be prepared to pass post-auction milestones prior to receiving any payments from the New Renewable Resources Account (as described on pages 8-14) if they win the bid. Bidders are encouraged to be aware of and prepare to satisfy these requirements prior to the auction, but are not expected to pass these milestones until after the auction is held. To ensure that bidders propose viable projects in the auction, **bids must include a forfeitable bid bond** (see What Should Be In Your Bid) or provide proof of their exemption from the bid bond requirement as specified in the applicable Notice of Auction. Bidders who win in the auction but are not willing or able to proceed toward the initial milestones will forfeit their bid bonds as specified in the applicable Notice of Auction.

Submission Of Your Bid

Bids must be submitted to the address and by the due date specified in the applicable Notice of Auction. Bids that are received by the Energy Commission by the due date will be logged in and time-stamped. Bids which are not received by the Energy Commission by the due date specified in the applicable Notice of Auction shall be rejected and returned to the submitting bidders unopened. In the interest of fairness to all bidders, no exceptions will be granted.

What Should Be in Your Bid

Every bid must include required information, using the forms provided in the applicable Notice of Auction, so that the Energy Commission can quickly evaluate the bids received. This *Guidebook* contains draft forms that may be revised or added to in a Notice of Auction. This information must be included in bids in order to proceed with the auction; bids that do not include this information will be disqualified. The information that must be included in bids is:

1. **The Cents/kWh Incentive Payment Requested**
2. **The Estimated Generation Over Five Payment Years**
3. **A Forfeitable Bid Bond**

¹² It would be unfair for a project to participate materially in the Existing Renewable Resources Account for a significant period of time and then repower and participate materially in the New Renewable Resources Account, effectively receiving up to 9 years of incentive payments .

- 4. Demonstration Of Project Eligibility**
- 5. Demonstration Of Site Control And Project Feasibility or Equivalent**
- 6. Bidder Information and Signatures**

Further description of these information items is provided in the subsections below. To be qualified for an auction, all information requested must be included in a bid. Whether a qualified bid wins or loses in an auction will depend only on the payment incentive requested and, as the funds are depleted, the expected generation in the bid. The estimated generation amounts in the bids will be used to determine when the funds allocated in the auction are depleted.

Any bid may be amended prior to the bid due date by submitting a revised bid that fully complies with the requirements of this *Guidebook* and the applicable Notice of Auction, along with a letter identifying the bidder's initial bid and directing the Energy Commission to replace the initial bid with the subsequent revised bid. The revised bid must be received by the Energy Commission by the bid due date. If received on time, the Energy Commission will evaluate the revised bid. Otherwise, the initial bid will be evaluated.

Bids will not be returned to bidders; they will be retained for project files. Bidders are discouraged from including confidential information in their bids unless indicated otherwise in the applicable Notice of Auction. If information of a confidential nature is required under a Notice of Auction, the Notice of Auction will indicate how the confidential information is to be marked and submitted and explain the process for requesting confidential treatment under the Commission's regulations.¹³

The Cents/kWh Incentive Payment Requested

The cents/kWh incentive payment requested is the one piece of bid information that will be used to rank bids -- from lowest incentive request to highest, with those with the lowest incentive requests considered first in the auction. The incentive payment request shall be in denomination no finer than one hundredth of a cent and shall not exceed 1.5 cents per kilowatt-hour.

These production incentives will be a constant, nominal cents/kWh amount paid monthly over at most a five year period for eligible generation, beginning with the first eligible month of generation from the project or the authorization of award to the project, whichever is later.

The Estimated Generation Over Five Payment Years

¹³ Title 20, California Code of Regulations, Article 2.

Bidders must, to the best of their ability, accurately estimate the level of generation that their proposed project will be able to provide over the five years that incentive payments will be received. This estimate will be used in an auction to determine the point at which auction funds are expected to be fully allocated and consideration of bids will stop. Estimation of the expected generation also has implications after the auction has been held. Underestimation of expected generation could lead to insufficient funds in the New Renewable Resources Account to make the payments. On the other hand, overestimation of expected generation will tie up funds unnecessarily, and is potentially anti-competitive.

Underestimation of generation will be discouraged by limiting incentive payments to no more than the amount of generation proposed in the bid for the project (over five years). That is, a project may end up generating more than originally estimated in their bid, but they will only get incentive payments for the amount reflected in their bid.

Overestimates of generation will be discouraged through reasonableness checks on generation estimates, by limiting incentive payments to five years of actual generation, and by potential penalties for clear overestimates.¹⁴ If the actual generation from a winning project averages less than 85 percent of the estimated generation over the first three years of operation, the cents/kWh incentive payments to the project will be reduced by 25 percent for the remaining two years of payments. In addition, the total project award will be reduced to reflect the observed actual annual generation (as observed over the first three years) and the reduced incentive payments for the last two years. Funds removed from a project award will be held for potential reallocation per the Report.¹⁵

A reduction in project incentives and total award due to insufficient generation may be avoided if the winning bidder makes a timely request to reduce the project award and demonstrates to the Energy Commission's satisfaction that the shortfall in generation was unanticipated and caused by circumstances beyond the bidder's reasonable control. If the request is approved by the Energy Commission, the project award will be reduced to reflect the project's expected generation over the remaining period of the award, but will not be assessed a 25 percent penalty. Projects that experience or expect a period where a low generation amount due to unforeseen events may trigger the penalty adjustment should notify the Energy Commission in writing.

In addition, a winning bidder may avoid a reduction in project incentives and total award by proposing project modifications to increase the project's generating capacity. The winning bidder must notify the Energy Commission in writing in advance of making any

¹⁴ The Energy Commission will examine the expected capacity factor for each project, compare to capacity factors experienced by similar existing projects, and require projects with clear discrepancies to clarify their information (bids may be deemed inadequate if clarification is not received). Any changes in the capacity of the project subsequent to the auction will be closely examined. If the capacity change is on clearly justified by post-auction considerations, the Energy Commission may terminate the project grant or otherwise penalize the project.

¹⁵ The Energy Commission's ***Policy Report on AB 1890 Renewables Funding***. (Publication Number P500-97-002).

such modifications and must also demonstrate to the Energy Commission's satisfaction that the shortfall in project generation was unanticipated and caused by circumstances beyond the bidder's reasonable control, and that the modified project remains otherwise eligible for funding. If the Energy Commission determines that the shortfall in generation was unanticipated and beyond the bidder's reasonable control, and the modified project remains otherwise eligible for funding, the project award will be reduced as needed to reflect the modified project's expected generation over the remaining period of the award, but will not be assessed a 25 percent penalty.

Bidders are expected to propose estimated generation amounts that reflect relatively constant annual generation over the five payment years. However, bidders may reflect a pattern of increasing generation over the five years if that pattern is expected for the proposed project. Projects with an increasing pattern of generation over time may inadvertently trigger the over-estimation penalty. In such cases, winning projects will have an equivalent alternative penalty specific to the project included in their Project Award Packages or Funding Awards. Projects are not allowed to reflect a pattern where expected generation is front-loaded and decreases over time. Projects should describe their expected pattern of generation over the five expected payment years in their bid forms. A winning project's generation expectations will be incorporated into their Project Award Package or Funding Award.

Forfeitable Bid Bond

Bidders must also include a forfeitable bid bond in the form of a letter of credit, an escrow account, or other financial instrument with their bid, or provide proof of their exemption as specified in the applicable Notice of Auction. The bid bond shall be equal to 10 percent of the expected total incentive payments in the bid, calculated as the incentive payment requested in the bid multiplied by the estimated generation in the bid (over five years). **Details on the type of bid bonds which may be submitted and any requirements associated with different bid bond instruments will be specified in the applicable Notice of Auction.** The bid bonds are forfeitable and will be held by the Energy Commission until after the auction.

The forfeitable bid bond is intended to provide a guarantee of performance in the auction, indicating that the bidder is proposing a serious, viable project that is fully expected to be built upon winning the auction. The bond is not intended to guarantee performance throughout the construction or during the operation of the project, consequently the bond will be returned or cleared upon passing milestones shortly after the auction. Any additional performance guarantees, beyond the bid bond, the milestones and the proof of generation performance prior to receiving incentive payments contained in this program, are left to decisions in the private market.

Projects that lose the auction will have their bid bonds returned within two months. Unless specified otherwise in the applicable Notice of Auction, winning projects will have one half (1/2) of their bid bonds returned upon passing Milestone # 1, and one half (1/2) returned after passing Milestone #2. Holding 1/2 of the bond through Milestone #2 is a

stronger guarantee that winning projects are serious, and viable. Winners that do not pass Milestone #1 will forfeit their bid bonds, with one exception: projects who have not been able to amend or terminate their S02 or IS04 contracts prior to the deadline for passing Milestone #1, one year after the auction date, will have their bid bonds returned within two months (but, having missed Milestone #1, are no longer eligible for incentive awards from the auction). Forfeited bid bonds will be reallocated to subsequent auctions or other accounts per the Report.

Demonstration Of Eligibility

Unless specified otherwise in the applicable Notice of Auction, the bidder shall provide documentation that the proposed project meets the eligibility to bid criteria described in this guide. Bidders should fully complete the Pre-Registration form included in the final guidebook volume attached to the Notice of Auction.

Demonstration Of Site Control And Project Feasibility

The bidder shall describe the proposed project, including exact location, expected capacity, technology and fuel type(s), expected transmission access, the permits expected to be required and the expected schedule for permit approval, financing structure, project construction schedule and expected on-line date, and any other relevant information.¹⁶ The bidder shall provide evidence that the location proposed can be used as proposed and is available to be owned or controlled by the bidder or be used as proposed and is available to be owned or controlled by the bidder or affiliated parties.¹⁷ The bidder shall describe the permits expected to be required to build and operate the project and provide evidence that the proposed project and any associated projects can be licensed and permitted under existing laws and regulations during the specified period.¹⁸ Any major permitting issues, such as rezoning, noise problems, environmental impact mitigation requirements, or hazardous materials use requirements, should be identified.

Bidder Information and Signatures

The bid should include the full business address of the bidder, and the names and phone numbers of authoritative and technical contact persons. One or more authorized officials of the bidder must sign the attached statement of verification of bid information and of the bidder's intent to bid and to abide by the protocols of bidding and the structure of incentive payments as described. The name and title (if any) of each person that signs the bid shall be typed or printed below their signature. Satisfactory evidence of authority of each person signing the bid shall be furnished upon request.

¹⁶ Cost of transmission access, along with other bid preparation and project construction costs, is the responsibility of the bidder or proposed project, not the Energy Commission.

¹⁷ A contingent option to purchase or lease the location is sufficient for establishing ownership availability.

¹⁸ At a minimum, examples of similarly situated projects that have been successfully licensed and permitted under existing law should be provided.

How Bids Will Be Evaluated

After the auction date (bid due date established in the Notice of Auction), all bids received on time will be evaluated to determine their qualification to participate. Only those bids that include adequate information as described above will be included in the auction and considered for awards. During the evaluation of bids, questions may be asked to clarify the elements of a specific bid. Bids that do not include adequate information shall be disqualified and ineligible for rewards. When all bids have been evaluated, the qualified bids will be ranked according only to their respective incentive payment requests, in order of lowest incentive payment request to highest, and the results of the auction will be determined according to the rules described below:

1. To be eligible for consideration, bids must be sealed, delivered to the California Energy Commission as specified in the Notice of Auction, and must contain all required bid information.
2. Only one bid per project should be submitted. If two or more bids are found to refer to the same proposed project, the bid with the lowest incentive payment request will be considered, or if equivalent, only one bid will be considered at random.
3. Bids will not be accepted with incentive payment requests for more than 1.5 cents/kWh.
4. Bids will be considered for inclusion in the order of lowest incentive payment request to highest. If including a bid under consideration does not cause the account funds to be equaled or exceeded by the expected total payouts (defined in Rule 8), the bid will be considered a winning bid. If including a bid under consideration causes funds to be equaled or exceeded, or all bids have been considered, the auction will be closed as described in rules 9 or 10 respectively.
5. Bids with equal incentive payment requests will be added as a group to the list of winning bidders, as if they are a single bid. Rule 9 describes what occurs when a group of bids being considered causes the auction to be closed. The auction will not attempt to break ties through additional bid criteria beyond incentive payment requests.
6. When the auction is closed, any remaining funds in the account will be held in trust for reallocation in either a subsequent auction or as otherwise determined by the Commission pursuant to Section 383.5 of the Public Utilities Code.
7. Bids will not be accepted if the total incentive that may be paid to the project, calculated as the product of the expected generation of the project for five years and the incentive payment request in the bid, exceeds 25 percent of the auction funds.

8. Expected total pay outs will be calculated by adding up the expected payouts to each project included or under consideration, calculated as the expected generation in each bid (over five years) multiplied by the incentive payment request in each bid.
9. If a bid or group of bids under consideration causes the expected total payouts to exceed the funds in the account, the auction will be closed by: reducing the projected generation amounts in the bids under consideration by a percentage amount that will result in the expected total payouts being equal to the account funds, giving those bidders the option of withdrawing their reduced bids from consideration, including bids that are not withdrawn as winning bids, and closing the auction. If funds become available subsequent to the auction because of funding award cancellations or reductions applied to winning bidders in that same auction, the Energy Commission may, at the Commission's discretion, reallocate a portion or all of those funds to winning bidders whose awards from that auction were reduced pursuant to this rule.
10. If all bids have been considered and accepted while expected total payouts remain less than or equal to the funds in the account, then the auction will be closed.

Additional rules may be specified in the applicable Notice of Auction, including rules specifying an incentive bonus for projects that come on-line ahead of schedule or by specified dates and rules establishing a fixed award reduction for projects that are not on-line on schedule or by specified dates.

What Happens After The Auction

Bidders will be notified by mail of the results of an auction within two months of the date of the auction.

If You Win

Winners of an auction will be provided with a written notification that their bid has been accepted. A winning bidder is not, however, assured of payment, nor is any payment implied or to be assumed, until the Energy Commission has adopted a project award package or funding award for the proposed project. Winning bidders and Commission staff will work together to develop project award packages and funding awards for each winning project.

The project award package or funding award will document the winning project's eligibility, status as auction winner, applicable milestones prior to payment, and expected payment amounts and schedule. The project award package or funding award will serve as the basis for adopting a winning project's funding award at a publicly-noticed Energy Commission hearing.

Winning projects will be required to meet a series of project development and construction milestones between an auction and the expected on-line date, and to submit periodic reports to the Commission describing their progress. These milestones and reports will help the Energy Commission track the progress of projects and distinguish between projects that have a serious intent and opportunity of becoming operational, and those that will not become or will have difficulty becoming operational. Individual projects may have a slightly different schedule of milestones, or be subject to additional milestones, depending upon the project.

A missed milestone may result in performance bonds, penalties, incentive payment forfeiture, or secondary milestones being imposed on the project. To address these performance issues, more specific terms will be included in the applicable Notice of Auction or a project award package or funding award. The Energy Commission reserves the right to terminate a project award and status as winner of an auction if a milestone is missed.

Milestone #1: Project Award Package Adoption (First Auction)

This section applies to winners of the first auction. Project Award Packages will not be prepared for winners of subsequent auctions. Instead, funding awards will be prepared for winners of subsequent auctions as specified in the applicable Notice of Auction.¹⁹

The first milestone for all projects will be the preparation and adoption of a project award package. The project award package will include, but not be limited to: documentation of the project's status as an auction winner, documentation of a project's eligibility to receive payments from the New Technologies Account, documentation of the project's understanding of permitting requirements and regulatory requirements after operation (such as hazardous materials handling), a listing and schedule of applicable milestones for the project prior to payment, and a tabulation of the expected schedule and amounts of payment from the New Technologies Account. **A sample set of documents expected to be included in the project award package will be provided with the Notice of Auction.**

Adoption of a project award package will effectively encumber the expected total payments to a project, subject to completion of milestones, generation of eligible kilowatt-hours, and any applicable penalties. Projects whose project award package has been adopted will have one half (1/2) of their bid bonds returned or cleared within two months. The remaining one half (1/2) of their bid bonds will be returned or cleared within two months of Energy Commission certification of passage of Milestone #2.

The Energy Commission believes that a typical project award package can be adopted within three months of the announcement of results from the auction. However, the Energy Commission recognizes that this time can vary significantly; those whose

¹⁹ The elements of a funding award under subsequent auctions will be similar to the elements of a Project Award Package under the first auction.

eligibility to receive payments from the New Technologies Account was clear prior to the auction will be able to prepare award packages sooner than those who must take actions to ensure payment eligibility after the auction. For example, winning bidders with existing S02, IS04, or similar negotiated utility contracts must terminate those contracts to be eligible to receive payments. The Energy Commission will not adopt a project award package for a project unless payment eligibility is assured. In all cases, however, winning projects must have their project award packages adopted within one year of the date of the auction.

The schedule for subsequent milestones included in the project award package may be driven in part by factors related to specific projects or technology types or by other renewable program initiatives. For example, projects that are capable of proceeding through their milestones and coming on-line quickly may be able to sell power more easily to consumers who are also participating in the Customer Credit Subaccount (which ends in 2001). Also, projects coming on-line prior to specific dates may be eligible for specific Federal tax credits or other incentives.

Assurance of Payment Eligibility

The Energy Commission will not pay production incentives for generation ineligible for payment from the New Technologies Account. While each payment will depend upon proof of eligible generation sold, the Energy Commission will not adopt awards for winning projects without an assurance that prospective generation from the project will meet eligibility requirements as follows:

1. Projects that involve repowers of facilities with existing S02, IS04, or similar negotiated contracts with utilities, must terminate their contracts to assure payment eligibility.
2. Projects must be intended to produce electricity sold to end-use customers in a manner that does not exclude any applicable competitive transition charge (CTC).²⁰ Projects must provide a signed statement of intent to sell to applicable customers or to the PX or another scheduling coordinator, or, if available, provide contracts or agreements with potential customers to assure payment eligibility.
3. Projects owned by local publicly-owned electric utilities must be sold or transferred to separate affiliates in order to assure payment eligibility.
4. Projects with affiliated components participating in the existing account or emerging account must have their New Technologies Account components separately metered, or equally distinguishable, to assure payment eligibility. Projects are responsible for provision of and the cost of such guaranteed method of distinguishing between generation that is eligible and generation that is ineligible.

²⁰ That is, electricity that is used on-site, or otherwise excluded from applicable CTC payments, is not eligible to receive incentive payments from the New Renewable Resources Account.

5. Projects with a fossil component must document in the project award package that the fossil component will comprise no more than 25 percent of the total annual generation from the project, as determined on a total energy input basis. As a project begins operation, if a period is expected where more than 25 percent fossil fuel will be required, the project must document the need for and length of this period, and will not be considered to be on-line as an eligible renewable project until this period ends.

What Happens If A Project Cannot Achieve Milestone # 1 (First Auction)

This section applies to winners of the first auction. Winners of subsequent auctions are expected to follow the schedule as specified in the applicable Notice of Auction.

Winning projects are expected to work assiduously with staff towards quick development and adoption of a project award package. If a project does not expect to quickly advance towards a project award package adoption, the project should notify the Energy Commission as soon as possible in writing to explain any unforeseen delays or set backs. Projects not showing progress towards a project award package in each three month period between the auction date and one year past that date are subject to removal from the list of winning bidders and forfeiture of their bid bonds, terminating their participation in this auction.²¹ Winning projects must pass Milestone # 1 by having their project award packages adopted within one year of the date of the auction. Projects that have not achieved Milestone # 1 within the year following the date of the auction will be removed from the list of winning bidders and forfeit their bid bonds, with one exception: projects who have not been able to amend or terminate their S02 or IS04 contracts prior to the deadline for passing Milestone #1, one year after the auction date, will be removed from the list of winning bidders, but will not forfeit their bid bonds (they will have their bid bonds returned within two months).

Post-Award Changes in Proposed Project

Projects are expected to go from award to completion unaltered from their original proposal; that is, projects are expected to be designed and proposed as feasible, permittable, serious projects. The Energy Commission, however, recognizes that some project changes may be required due to permitting requirements or events that are unforeseen by the bidder. The Energy Commission must be notified in advance in writing of any proposed change in a winning project while the incentive program is pending or operational for that project. Changes that have no material bearing upon the purposes or process of the incentive program, or on the amounts of incentives received by the project, will receive a letter of notification that the proposed change will not affect

²¹ Projects that win in a New Renewable Resources Account auction but cannot or will not achieve basic first steps towards operation are considered to be unfairly tying up funds that may have been allocated to competitors in the auction. It is the Energy Commission's intent to discourage these projects by requiring forfeiture of their bid bonds.

the project's award. For example, a project's name or owner may change (the second owner must meet eligibility criteria) without materially affecting the program.

Changes having a material bearing upon the purposes or process of the incentive program may, upon determination by the Energy Commission, result in penalties, forfeiture of incentive payments, or termination of grant awards to the project. For example, a project that is sold to a non-eligible owner or becomes non-renewable will materially affect the program.

The Energy Commission will determine an appropriate response, ranging from notification that the proposed change will not affect the project's award, to notification that the proposed change does not meet the intent of the program and may trigger adoption of penalties or an order terminating the grant award of the project.²²

Milestones 2 Through 6: Project Status Checkpoints (First Auction)

This section applies to winners of the of the first auction. Winners of subsequent auctions are expected to pass similar milestones and may be subject to the same consequences for failing to do so on time as specified in the applicable Notice of Auction.

The second through the sixth milestones are points during the pre-construction and construction phases of a project where demonstrable progress can be shown. After the sixth and final milestone, the project is expected to be on-line and producing electricity for sale. These points, including filing and approval of project applications and the start of project construction, will be laid out for each project in the Project Award Package. The following table provides an indication of expected timing for these milestones, and the text following the table describes what happens as milestones are completed, delayed from the expected schedule, or not completed.

If a project meets one of these milestones as detailed in the project award package, with no changes in the project, the project should notify the Energy Commission in writing. The Energy Commission may verify completion by requests for detailed backup, audits, on-site visits or other methods as required. A milestone will not be considered passed by the Energy Commission without written notification and potential verification. Within two months of Energy Commission certification of passing Milestone #2, the remaining one half (1/2) of the winning project's bid bond will be returned or cleared. If a project expects to meet one of the milestones, but the schedule is changed from that given in the project award package, the project should notify the Energy Commission in writing and provide a new expected date for achieving the milestone and any other revisions to subsequent milestone dates that may be needed. The Energy Commission

²² A project cannot be changed prior to coming on-line in a manner that makes it easier to meet an on-line deadline and subsequently changed again after coming on-line to return the project back to its prior status. For example, a wind project cannot be changed so that 15% fewer turbines are to be installed, come on-line with this reduced project, and subsequently be changed to re-associate the turbines in question with the project.

will determine whether any additional milestones or any penalties should be imposed on the project as a result of the delayed milestone.

If a project does not expect to achieve one of these milestones, even with delays, the project should notify the Energy Commission as soon as possible in writing. If the project does not show changes that result in progress towards this or subsequent milestones, the Energy Commission will, within six months from the milestone date, determine whether the project award should be terminated through an award termination order. An award termination order will result in the funds associated with the project being reallocated to subsequent auctions or other uses within the Renewables Fund.

Table 2
Milestones 2 through 6
General Description and Expected Timing

Milestone	Description	Timing: Months After Project Award Package Adoption
Milestone 2: Applications Filed	Filing of all relevant project construction applications, including filing for any environmental and land-use permits including CEQA.	6 Months
Milestone 3: Approvals Obtained	Approval of all relevant project construction applications, including any critical path, environmental and land-use permits and CEQA certification/ exemption.	15 Months
Milestone 4: Construction Started	Beginning of construction of the project. Foundation or piling work begins, or major equipment is delivered on-site.	18 Months
Milestone 5: Construction Progress Check	A checkpoint in the ongoing construction of a project, with the exact date and checkpoint defined in the PAP.	24 Months
Milestone 6: Completed & On-line	The on-line date is the start of normal operation of the project, after any shakedown period, if necessary.	36 Months

If one of the scheduled milestone dates passes without any written notification by the project, the Energy Commission will contact the project and attempt to determine the status of the milestone. If no contact with the project can be established, the Energy Commission will, within six months from the milestone date, determine whether the project award should be terminated through an award termination order.

Prior to Milestone #6, the project on-line date, a project must apply for registration as an eligible renewable generator, using the CEC-189OA-1 registration form (or the

appropriate replacement form at the time). To receive funding, the project must also complete the State of California Vendor Record (STD-204). The State of California requires that all parties entering into business transactions that may lead to payment(s) from the State provide their Taxpayer Identification Number (TIN) as required by the State Revenue and Taxation Code, Section 18646, and Federal Internal Revenue Code, Section 6109. This form must be on file with the Energy Commission in order for any payments to be made. If you have any questions about this form, please contact the California Franchise Tax Board at 1-800-852-5711. Instructions for completing the CEC-1 89OA-1 and the STD-204 forms are included with the forms at the end of this guidebook.

Quarterly Reports

Unless indicated otherwise in the applicable Notice of Auction, winning projects will be expected to submit quarterly reports to the Energy Commission describing the project's progress towards coming on-line. These quarterly reports will be due at the end of each calendar quarter, beginning in the first quarter after the auction date and ending in the first quarter that the project begins receiving incentive payments. The quarterly reports should document any progress to date (milestones passed), any progress towards the next applicable milestone, any problems compromising progress towards the next applicable milestone, proposed resolution of those problems, any changes in the project status or description, any violations of program requirements that have occurred, and any expected or requested changes in schedule.

Coming On-line

All projects are expected to come on-line by the date specified in the applicable Notice of Auction.

First Auction, Notice of Auction (NOA) 500-97-506:

Projects under the Energy Commission's first auction, NOA 500-97-506, are expected to come on-line prior to January 1, 2002. This on-line date requirement is based on the 1998 version of Public Utilities Code section 383.5(c)(2)(B), which authorized funding award payments for five years provided a project was operational prior to January 1, 2002. Based on this requirement, NOA 500-98-506 states: "Winning projects are expected to come on-line as an eligible renewable generator prior to January 1, 2002; those who come on-line later than this date may have their awards terminated by the Commission, and in no case will they receive incentive payments for generation after December 31, 2006."

In addition, the *Guidebook for the Renewable Energy Program, Volume 2B, New Renewable Resources Account – Implementation of Auction Results*²³ states, "All projects are expected to come on-line prior to January 1, 2002. Any project failing to

²³ Publication No. P500-01-014V2B.

come on-line before this date may still be eligible to receive monthly payments, but will receive no payments for any generation beyond December 31, 2006, five years from the expected on-line date. In addition, the Commission will determine whether the project should have its incentive payments reduced or canceled, or whether any other penalties should be imposed on the project, as a result of the delayed on-line date.”

In September of 2000, Public Utilities Code section 383.5(c)(2)(B) was amended to allow funding award payments to be made for five years even though a project was not on-line by January 1, 2002, if the Energy Commission determined that the project’s delayed on-line date was the result of circumstances beyond the developer’s control. Pursuant to this amendment, projects under the first auction that are unable to come on-line by January 1, 2002 may petition for an extension of their funding awards in the manner specified in the Commission’s *Overall Guidelines for the Renewable Resource Trust Fund*, but are subject to further award reductions and penalties for coming on-line late.

Second Auction, NOA 500-00-504:

Projects under the Energy Commission’s second auction, NOA 500-00-504, are also expected to come on-line by January 1, 2002. However, the second auction was designed primarily to encourage projects to be developed by the summer of 2001 to help with California’s projected shortage of electricity supplies. Toward that end, NOA 500-00-504 specified a system of bonuses and penalties based on a project’s on-line date as shown below:

Project On-line Date	Percentage of Award
Prior to or on June 1, 2001	110 Percent
June 2 to July 1, 2001	100 Percent
July 2 to August 1, 2001	90 Percent
August 2 to December 31, 2001	80 Percent
January 1, 2002 and beyond	Award may be terminated or further reduced

As shown in the table, projects coming on-line on or before June 1, 2001 will receive a 10 percent bonus, while projects that have not come on-line by January 1, 2002 may be subject to further award reductions or termination.

Projects under the second auction that are unable to come on-line by January 1, 2002 may also petition for an extension of their funding awards as specified in the *Overall Guidelines for the Renewable Resource Trust Fund*, but are subject to further award reductions and penalties as specified below. While projects under the second auction participated with the understanding that their primary value was in coming on-line quickly, ideally by summer 2001, the Commission recognizes that there have been a number of unforeseen occurrences affecting California’s electricity market during the period in which these projects were being developed. Therefore, projects under the second auction that are unable to come on-line by January 1, 2002 as a result of circumstances beyond the developer’s control will be subject to the revised schedule of

penalties shown below. In addition, no payments will be made to these projects for any generation beyond July 2, 2008.

PENALTIES FOR WINNING PROJECTS IN NOTICE OF AUCTION 500-00-504	
Project On-line Date	Percentage of Award
January 1 to September 1, 2002	80 Percent
September 2 to December 31, 2002	70 Percent
January 1, 2003 to April 1, 2003	60 Percent
April 2, 2003 to July 1, 2004	50 Percent
July 2, 2004 and beyond	Award may be further reduced or terminated.

Third Auction, NOA 6-01-3:

The Commission's third auction, NOA 6-01-3, was conducted in mid-2001 and was intended to solicit renewable projects that could be on line by summer 2002 (well after the January 1, 2002 on-line date identified in Public Utilities Code section 383.5(c)(2)(B)). Therefore, the Commission has determined that the timing of the auction in itself constitutes circumstances beyond the project developer's control for purposes of extending the funding awards of any projects that are not on-line by January 1, 2002. These funding awards will be automatically extended and subject to the bonuses and penalties shown in the table below. In addition, no payments will be made to these projects for any generation beyond July 2, 2008.

PENALTIES FOR WINNING PROJECTS IN NOTICE OF AUCTION 6-01-3	
Project On-line Date	Percentage of Award
Prior to or on June 1, 2002	110 Percent
June 2 to July 1, 2002	100 Percent
July 2 to August 1, 2002	90 Percent
August 2 to September 1, 2002	80 Percent
September 2 to December 31, 2002	70 Percent
January 1, 2003 to April 1, 2003	60 Percent
April 2, 2003 to July 1, 2004	50 Percent
July 2, 2004 and beyond	Award may be further reduced or terminated.

After A Project Comes On-line

To receive incentive payments, on-line projects must submit monthly invoices identifying the amount of eligible power generated from the project. The monthly invoice shall consist of a completed and properly executed CEC-189OB-3 form, a copy of which is included with this guidebook, or its replacement at the time, together with an attached invoice or written statement of an independent third party verifying the project's eligible power generation for the billing month. The third party may be a utility, the Independent System Operator created pursuant to section 330 of the Public Utilities Code, an aggregator, or other similar entity which is independent of the project and gathers data on the amount of electricity production supplied by the project to the transmission grid or distribution system on a monthly basis. If the independent third party's statement is not

received in time to submit it with your invoice, you are expected to submit your invoice with other evidence of the amount of eligible power generated during the billing month. A letter explaining why the third party's statement could not be submitted and describing the evidence submitted in its place must also be submitted with the invoice. The Commission's Accounting Office will evaluate these invoices on a case-by-case basis and notify the submitting party whether the amount claimed in the invoice, or any part of it, will be accepted and paid upon. The Commission's Accounting Office may elect to pay only that portion of the amount invoiced which appears to be reasonable given the evidence submitted in support of the invoice, the prior months' generation, and other factors deemed pertinent at the time of evaluation. Subsequently, when the third party statement is available, it must be furnished to the Commission's Accounting Office and payment adjustments will be made for any differences in the estimated eligible generation and actual eligible generation.

Invoices **may be submitted by telefax** or by mail to the Commission's Accounting Office at: **California Energy Commission, Accounting Office, 1516 9th Street, MS-2, Sacramento, CA 95814-5512, Telefax: (916)653-1435** by the due date specified in the Invoicing Schedule shown in Table 3.

Invoices which are not complete or legible will be returned by the Commission along with a written notice stating the reasons why the invoice was rejected.

The Commission intends to make incentive payments within 60 days of the end of the billing month. For example, payment for January 1999 generation would be made on or about March 31, 1999.

If a project consistently generates less than is specified in its funding award, the project will run the risk of an overestimation penalty.²⁴ The Energy Commission will determine, based upon the generation information submitted, whether a project may be at risk for a penalty for overestimation, and notify the project. Projects that are generating less than expected may avoid the overestimation penalty by requesting a reduction in the

²⁴ If the actual generation from a winning project averages less than 85 percent of the estimated generation over the first three years of operation, the cents/kWh incentive payments to the project will be reduced by 25 percent for the remaining two years of payments. In addition, the total project award will be reduced to reflect the observed actual annual generation (as observed over the first three years) and the reduced incentive payments for the last two years. Funds removed from a project award will be held for potential reallocation per the Report

Table 3
Invoicing Schedule

Billing Month	Invoice Due Date*	Anticipated Payment Date
January 1999	March 10, 1999	March 31, 1999
February 1999	April 12, 1999	April 30, 1999
March 1999	May 10, 1999	May 31, 1999
April 1999	June 10, 1999	June 30, 1999
May 1999	July 12, 1999	August 2, 1999
June 1999	August 10, 1999	August 31, 1999
July 1999	September 10, 1999	September 30, 1999
August 1999	October 12, 1999	November 1, 1999
September 1999	November 10, 1999	November 30, 1999
October 1999	December 10, 1999	December 31, 1999
November 1999	January 10, 2000	January 31, 2000
December 1999	February 10, 2000	February 29, 2000
January 2000	March 10, 2000	March 31, 2000
February 2000	April 10, 2000	May 1, 2000
March 2000	May 10, 2000	May 31, 2000
April 2000	June 12, 2000	June 30, 2000
May 2000	July 10, 2000	July 31, 2000
June 2000	August 10, 2000	August 31, 2000
July 2000	September 11, 2000	October 2, 2000
August 2000	October 10, 2000	October 31, 2000
September 2000	November 10, 2000	November 30, 2000
October 2000	December 11, 2000	January 2, 2001
November 2000	January 10, 2001	January 31, 2001
December 2000	February 12, 2001	February 28, 2001
January 2001	March 12, 2001	April 2, 2001
February 2001	April 10, 2001	April 30, 2001
March 2001	May 10, 2001	May 31, 2001
April 2001	June 11, 2001	July 2, 2001
May 2001	July 10, 2001	July 31, 2001
June 2001	August 10, 2001	August 31, 2001
July 2001	September 10, 2001	October 1, 2001
August 2001	October 10, 2001	October 31, 2001
September 2001	November 12, 2001	November 30, 2001
October 2001	December 10, 2001	December 31, 2001
November 2001	January 10, 2002	January 31, 2002
December 2001	February 11, 2002	February 28, 2002
Similar schedule through end of 2006, if applicable.		
* Invoices are due approximately 40 days after the billing month.		

project's funding award to reflect the lower generation. Such a request must be in writing, submitted to the Energy Commission in a timely manner, and clearly describe the following: 1) the project's generation as realized to date and expected over the remaining period of the funding award, 2) the circumstances that resulted in the lower than expected generation, and 3) why the shortfall in generation was unanticipated and beyond the project developer's reasonable control. If the Energy Commission determines that the shortfall in generation was unanticipated and beyond the project developer's reasonable control, the project's funding award will be reduced to reflect the project's expected generation over the remaining period of the funding award, but will not be assessed a 25 percent penalty.

In addition, projects may avoid the overestimation penalty by requesting a modification to increase the project's generating capacity. This request must be in writing, submitted to the Energy Commission in a timely manner, and clearly describe the following: 1) the

project's generation as realized to date and expected over the remaining period of the funding award, 2) the circumstances that resulted in the lower than expected generation, 3) why the shortfall in generation was unanticipated and beyond the project developer's reasonable control, 4) the proposed project modifications that are intended to increase the project's generating capacity, and 5) the increased generation expected from said modifications. If the Energy Commission determines that the shortfall in generation was unanticipated and beyond the project developer's reasonable control, and the modified project remains otherwise eligible for funding, the funding award will be reduced as needed to reflect the modified project's expected generation over the remaining period of the funding award, but will not be assessed a 25 percent penalty. If the expected generation for the modified project equals or exceeds the level specified in the project's funding award, the total amount of the funding award will remain unchanged. Under no circumstances will the total amount of a project's funding award be increased due to a project's modification.

The Energy Commission may determine that some generation from a project is ineligible (for example, has been used on-site or otherwise avoided CTC payments during sale or has not been produced in conformance with the definition of renewable generation) and penalize the project by reducing subsequent production incentives appropriately. The Energy Commission will notify a project if a portion of its generation is of questionable eligibility. In an effort to avoid any penalty, the project may appeal or clarify with additional information.

If You Lose

Notification Of Nonacceptance

Losers of an auction will be provided with notifications that their proposed projects were not acceptable, and the reason or reasons for nonacceptance of their bids (bids could be determined ineligible or incomplete as well as request a payment incentive that is above the auction market price determined). Losing bids will not be provided with an opportunity to "improve" their bid with a lower payment request or other alterations of their bid characteristics. Losing bids have the right to appeal to the Energy Commission only upon the grounds that these guidelines and/or the applicable Notice of Auction were not followed. Unless specified otherwise in the applicable Notice of Auction, the Energy Commission will not reconsider losing bids if some winning bids drop out after the auction. Losing bids, however, are free to participate in any subsequent auctions.

Subsequent Auctions

Losing projects from an auction may participate with the same or a similar project bid in any subsequent auctions that are held, provided that they meet the eligibility criteria established for those auctions. Any funds not allocated (encumbered) through the first or second auction described herein, or that are made available through penalty payments, terminations of grant awards, unforeseen underpayments, and rollover from other Renewable Trust Fund Accounts, may be allocated through subsequent auctions,

if deemed necessary with due consideration of market conditions and previous auctions. Any subsequent auctions may be related to milestones established for preceding auctions. Circumstances will determine whether any auction other than the first scheduled event, described herein, will be held.

Definitions

affiliate – any person, corporation, utility, partnership, or other entity five percent or more of whose outstanding securities are owned, controlled, or held with power to vote, directly or indirectly either by a utility or any of its subsidiaries, or by that utility's controlling corporation and/or any of its subsidiaries as well as any company in which the utility, its controlling corporation, or any of the utility's affiliates exert substantial control over the operation of the company and/or indirectly have substantial financial interests in the company exercised through means other than ownership.

billing month – the period of time coinciding with a calendar month in which a registered Renewable Supplier is entitled to receive an incentive payment pursuant to this guidebook.

competitive transition charge (CTC) – a charge authorized by the California Public Utilities Commission that is imposed on investor-owned utility (IOU) ratepayers (i.e. customers that receive electricity distribution services from the IOU) to recover the costs of utility investments made on behalf of their former customers. The CTC is to be collected in a competitively-neutral manner that does not increase rates for any customer class solely due to the existence of transition costs. [Public Utilities Code Section 367 (added by AB 1890)]

equivalently separated – a transfer of project ownership to an entity such as a utility affiliate such that the project's construction, operating, administrative and management costs, including but not limited to payroll, taxes, shareholder services, insurance, financial planning and analysis, corporate security, human resources (compensation, benefits, employment policies), employee records, regulatory affairs, lobbying, legal, pension management, computer services, offices and office equipment and facilities, and advertising are separated from the utility costs and not charged back to the utility ratepayers directly or indirectly in any form or manner, such as through arrangements for shared employees or the purchases of goods and services.

facility – See **project**.

fair market value – The value that a project would receive if sold. Can be determined by independent assessor in lieu of sale.

in-state renewable generation – biomass, solar thermal, photovoltaic, wind, geothermal, small hydropower of 30 megawatts or less, waste tire, digester gas, landfill gas, and municipal solid waste generation technologies, as described in *the Policy Report on AB 1890 Renewables Funding*, including any additions or enhancements thereto, that are produced in facilities located in this state and placed in operation after September 26, 1996, or that were operational prior to that date, and that are also certified under Section 292.207 of Title 18 of the Code of Federal Regulations as a qualifying small power production facility either located in California, or that began selling electricity to a California electrical corporation prior to September 26, 1996, under a Standard Offer Power Purchase Agreement authorized by the California Public Utilities Commission.

investor-owned utility – an utility that is organized as a tax-paying business, whose properties are managed by representatives elected by shareholders.

kilowatt (kW) – one thousand watts. A unit of measure for the amount of electricity needed to operate given equipment. A typical home using central air conditioning and other equipment might have a demand of 4-6 kW on a hot summer afternoon.

kilowatt hour (kWh) – the most commonly-used unit of measure telling the amount of electricity consumed over time. It means one kilowatt of electricity supplied for one hour. A typical California household consumes about 500 kWh in an average month.

local publicly-owned electric utility – as defined in Public Utilities Code section 9604, subdivision (d), and which includes a municipal utility district, a public utility district, an irrigation district, or a joint powers authority made up of one or more of these entities.

metered – The independent measurement with a standard meter of the electricity generated by a project or facility.

on-site generation – any electricity that is generated and used to serve load on that same site.

Power Exchange (PX) – an independent, nonprofit entity created pursuant to AB 1890 and responsible for conducting an auction for the generators seeking to sell energy and for loads which are not otherwise being served by bilateral contracts. The PX will be responsible for scheduling generation, determining hourly market clearing prices for its market, and settling and billing for suppliers and retailers using its market.

project – A group of one or more pieces of generating equipment, and ancillary equipment necessary to attach to the transmission grid, that is unequivocally separable from any other generating equipment or components. Two or more sets of generating equipment that are contiguous, or that share common control or maintenance facilities and schedules and are located within a one mile radius shall constitute a single project.

repower(ed) – generically refers to replacing a significant portion of the generating equipment at an existing facility. In the context of this report, refers to an existing renewable generation facility that retrofits its existing facility to the point that the value of the retrofit is at least 80 percent of the value of the renovated facility.

Forms and Samples

- Instructions for completing CEC-1890B-1, CEC-1890B-3, and STD-204
- CEC-1890B-1 – Registration Form for New Renewable Suppliers
- CEC-1890B-3 – Monthly Invoice Report for New Renewable Resources Account
- STD-204, Vendor Data Record
- Quarterly Status Report Format
- Overall Project Award Package Declaration
- Sample Funding Award Agreement
- Engineer's Certification of On-line Operations

Instructions for completing CEC-1890B-1, Registration Form for New Renewable Suppliers

For initial registration, please check the box in the upper right-hand corner for “Original.”

1. **Name of Facility** – Current full name of the generating facility. Include name of business or company that owns facility, if different than facility name
2. **Physical Address of Facility** – Actual physical location of the generating facility
3. **Company** – Name of company that owns/operates facility
4. **Contact Person** – Name, address, and telephone/telefax number for the contact person for any questions or concerns the Commission may have
5. **Energy Source** – Energy source used for generation at the facility.
6. **Capacity of Facility** – The sum capacity, in kilowatts, of all electrical generating equipment employed at the facility.
7. **Operational Date** – Date the facility began generating electricity
8. **Percentage of Fossil Fuel Used (if applicable)** – Please indicate the overall percentage of fossil fuels used (if any) on a total energy input basis for the 1996 calendar year; if none, enter N/A
9. **Declaration** – The declaration must be completed by an officer of the company such as the Chief Executive Officer, Chief Financial Officer, or a similar officer with authority to bind the company

Instructions for completing STD-204, Vendor Data Record

1. **Return Form To** – Already completed by the Commission
2. **Vendor information** – Please enter your business name and address; if you are a sole proprietor, enter the owner’s full name
3. **Vendor Entity Type** – Please check the appropriate box
4. **Vendor’s Taxpayer ID Number** – Please enter your federal ID number. If you are an individual/sole proprietor, please enter your social security number
5. **Vendor Residency Status** – Please check the appropriate box corresponding to your residency status
6. **Registering Signature** – The registration must be signed by an authorized representative or officer such as the Chief Executive Officer or Chief Financial Officer of the corporation, or a similar officer with authority to bind the company

Instructions for completing CEC-1890B-3, Monthly Invoice Report for New Renewable Resources Account

1. **Company Name** – Current full name of the generating facility. Include name of business or company that owns facility, if different than facility name.
2. **Statement Period** – The billing month and year
3. **Statement Date** – Date that the invoice is submitted to the Commission
4. **CEC ID** – The Registered Renewable Supplier ID number assigned to the facility by the Commission
5. **QFID** – The ID number assigned by your utility. This is sometimes also called the log number
6. **Production (in kWhs)** – Number of kWhs of generation eligible for funding in a given billing month, and based on the statement of an independent third party. If eligible generation is sold to more than one entity in a given month, attach a separate statement itemizing the amount of eligible generation sold to each entity.
7. **Declaration** – The declaration must be completed by an officer of the company such as the Chief Executive Officer, Chief Financial Officer, or a similar officer with authority to bind the company

Note: For administrative convenience, the format of the CEC-1890B-1 and CEC-1890B-3 forms, as well as the information requested, may be modified in the future. [Such modifications will not be deemed substantive in nature.]

Signature: _____



RENEWABLE
ENERGY
PROGRAM

CALIFORNIA ENERGY COMMISSION

ARE YOU A RESIDENT OR A NONRESIDENT?

Each corporation, individual/sole proprietor, partnership, estate or trust doing business with the State of California must indicate their residency status along with their vendor identification number.

A corporation will be considered a "resident" if it has a permanent place of business in California. The corporation has a permanent place of business in California if it is organized and existing under the laws of this state or, if a foreign corporation has qualified to transact intrastate business. A corporation that has not qualified to transact intrastate business (e.g., a corporation engaged exclusively in interstate commerce) will be considered as having a permanent place of business in this state only if it maintains a permanent office in this state that is permanently staffed by its employees.

For individuals/sole proprietors, the term "resident" includes every individual who is in California for other than a temporary or transitory purpose and any individual domiciled in California who is absent for a temporary or transitory purpose. Generally, an individual who comes to California for a purpose which will extend over a long or indefinite period will be considered a resident. However, an individual who comes to perform a particular contract of short duration will be considered a nonresident.

For withholding purposes, a partnership is considered a resident partnership if it has a permanent place of business in California. An estate is considered a California estate if the decedent was a California resident at the time of death and a trust is considered a California trust if at least one trustee is a California resident.

More information on residency status can be obtained by calling the Franchise Tax Board at the numbers listed below:

From within the United States, call 1-800-852-5711
From outside the United States, call 1-916-854-6500
For hearing impaired with TDD, call 1-800-822-6268

ARE YOU SUBJECT TO NONRESIDENT WITHHOLDING?

Payments made to nonresident vendors, including corporations, individuals, partnerships, estates and trusts, are subject to withholding. Nonresident vendors performing services in California or receiving rent, lease or royalty payments from property (real or personal) located in California will have 7% of their total payments withheld for state income taxes. However, no withholding is required if total payments to the vendor are \$1500 or less for the calendar year.

A nonresident vendor may request that income taxes be withheld at a lower rate or waived by sending a completed form FTB 588 to the address listed below. A waiver will generally be granted when a vendor has a history of filing California returns and making timely estimated payments. If the vendor activity is carried on outside of California or partially outside of California, a waiver or reduced withholding rate may be granted. For more information, contact:

Franchise Tax Board
Withhold at Source Unit
Attention: State Agency Withholding Coordinator
P.O. Box 651
Sacramento, CA 95812-0651
Telephone: (916) 845-4900
FAX: (916) 845-4831

If a reduced rate of withholding or waiver has been authorized by the Franchise Tax Board, attach a copy to this form.

PRIVACY STATEMENT

Section 7(b) of the Privacy Act of 1974 (Public Law 93-5791) requires that any federal, state, or local governmental agency which requests an individual to disclose his social security account number shall inform that individual whether that disclosure is mandatory or voluntary, by which statutory or other authority such number is solicited, and what uses will be made of it.

The State of California requires that all parties entering into business transactions that may lead to payment(s) from the State must provide their Taxpayer Identification Number (TIN) as required by the State Revenue and Taxation Code, Section 18646 to facilitate tax compliance enforcement activities and to facilitate the preparation of Form 1099 and other information returns as required by the Internal Revenue Code, Section 6109. The TIN for individual and sole proprietorships is the Social Security Number (SSN).

It is mandatory to furnish the information requested. Federal law requires that payments for which the requested information is not provided be subject to a 31% withholding and state law imposes noncompliance penalties of up to \$20,000.

You have the right to access records containing your personal information, such as your SSN. To exercise that right, please contact the business services unit or the accounts payable unit of the state agency(ies) with which you transact business.

Please call the Department of Finance, Fiscal Systems and Consulting Unit at (916) 324-0385 if you have any questions regarding this Privacy Statement. Questions related to residency or withholding should be referred to the telephone numbers listed above. All other questions should be referred to the requesting agency listed in Section 1.

QUARTERLY REPORT
NEW RENEWABLE RESOURCES ACCOUNT
 Note: All data submitted on this form is subject to public disclosure

Project Name: _____

Contact Person: _____

Address/Phone/Fax: _____

Date: _____

Milestone	Expected (or Actual) Completion Date ¹	Permitting Agency (for milestones 2 & 3)	Check if Completed	Check if Schedule Has Changed from: (please check applicable box)		
				Bid	PAP	Previous Report
Milestone #1 - Project Award Package Adoption	_____		<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
Milestone #2 - Applications Filed (list all construction, environmental and/or land use permits or licenses and permitting agency)						
Critical Path Permit ²	_____	_____	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
CEQA Analysis (lead agency)	_____	_____	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
Other Applicable Permits (please itemize)	_____	_____	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
	_____	_____	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
	_____	_____	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
	_____	_____	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>

¹ Should reflect project's current schedule for milestones not yet completed or actual completion date for milestones completed.
² The Critical path Permits for all non-thermal projects and thermal projects exempt from CEC Site Certification are (a) for Geothermal, County Conditional use Permit or Special Zone permit; (b) for Biomass, County Conditional Use Permit or Special Zone Permit, or Air Quality Permit; (c) for Wind, County Conditional Use Permit or Special Zone Permit; (d) for Hydro, FERC License or Exemption. California Energy Commission Site Certification is required for non-exempt thermal projects over 50 MW.

QUARTERLY REPORT **NEW RENEWABLE RESOURCES ACCOUNT** Note: All data submitted on this form is subject to public disclosure

Milestone	Expected (or Actual) Completion Date ¹	Permitting Agency (for milestones 2 & 3)	Check if Completed	Check if Schedule Has Changed from: (please check applicable box)		
				<input type="checkbox"/>	<input type="checkbox"/>	
			<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>	
			<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>	
Milestone #3 - Permit Approvals Obtained						
Critical Path Permit ²			<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>	
CEQA Analysis (lead agency)			<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>	
Other Applicable Permits (please itemize)			<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>	
			<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>	
			<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>	
			<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>	
Milestone #4 - Construction Begun			<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>

QUARTERLY REPORT **NEW RENEWABLE RESOURCES ACCOUNT** Note: All data submitted on this form is subject to public disclosure

Milestone	Expected (or Actual) Completion Date ¹	Permitting Agency (for milestones 2 & 3)	Check if Completed	Check if Schedule Has Changed from: (please check applicable box)
				<input type="checkbox"/> <input type="checkbox"/>
Milestone #5 - Construction Progress Check (as defined in project award package)			<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
Milestone #6 - Completed and On-Line			<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>

1. Describe progress of project since the last submitted Quarterly Status Report³ (attach additional pages if necessary):

2. Describe any issues or problems affecting progress of project toward the next applicable milestone (attached additional pages if necessary):

3. Describe the proposed resolution to the issues/problems described in item #2 above (attached additional pages if necessary):

QUARTERLY REPORT
NEW RENEWABLE RESOURCES ACCOUNT
Note: All data submitted on this form is subject to public disclosure

4. Explain any anticipated/actual changes to the project development schedule since the last submitted Quarterly Status Report (attach additional pages if necessary):

DECLARATION:

I certify that the foregoing information is true and complete to the best of my knowledge.

Date:

Signature:

Name and Title:

³ For the initial Quarterly Status Report, describe project progress since project was notified that it was an auction winner.

**OVERALL
PROJECT AWARD PACKAGE
DECLARATION**

I, (print name and title) _____,

declare under the penalty of perjury that the information provided in this project award package is true and correct to the best of my knowledge, and that I, as an authorized agent of the project developer identified in this package, have authority to submit this information.

Dated this _____ day of _____, _____, at
(day) (month) (year)

(place of execution)

Signature: _____

SAMPLE FUNDING AWARD AGREEMENT

1. **Purpose.** This funding award agreement ("Agreement") is entered into between _____ ("Awardee") and the California Energy Commission ("Commission") for the purpose of creating a funding award pursuant to the Commission's Renewable Resource Trust Fund Guidelines ("Renewable Guidelines") and Notice of Auction 500-97-506 ("NOA"). Awardee was selected as a winning bidder under the NOA and must comply with the terms and conditions of the Renewable Guidelines, the NOA, and this Agreement to be eligible for funding from the New Renewable Resources Account.
2. **Incorporation by Reference.** Neither the Commission's Renewable Guidelines nor the NOA are attached hereto, but are incorporated by reference and made a part of this Agreement.
3. **Funding Award Amount.** The total amount of Awardee's funding award under this Agreement is _____, and is based on the Awardee's bid of ____ cents/kWh incentive request and the following annual levels of eligible electrical power generation, as in Awardee's bid.

Year 1 Generation	_____ kWh
Year 2 Generation	_____ kWh
Year 3 Generation	_____ kWh
Year 4 Generation	_____ kWh
Year 5 Generation	_____ kWh

Total _____ kWh

Should Awardee's project fail to generate eligible electrical power at these levels, Awardee's funding award may be canceled or reduced for cause as specified in the NOA.

4. **Term.** The term of this Agreement shall be from the date of execution by both Awardee and the Commission to five years after the project's on-line date or December 31, 2006, whichever occurs first, unless terminated earlier by the Commission pursuant to the Renewable Guidelines or the NOA.
5. **Non-Transferability of Funding Award.** The funding award created by this Agreement is specific to Awardee and the _____ project described in the attached Project Award Package, dated _____ (hereafter "Project Award Package"), which is hereby incorporated by reference. This funding award is not transferable or assignable to another project, and may not be assigned to another entity without the Commission's prior written permission.
6. **Assignment.** Awardee shall not assign its rights nor delegate its duties under this Agreement without the Commission's advance written approval.
7. **Indemnification.** Awardee agrees to indemnify, defend and save harmless the Commission, its officers, agents and employees from any and all claims and losses accruing and resulting to any and all contractors, subcontractors, materialmen, laborers, and any other person, firm or corporation furnishing or supplying work, services, materials, or supplies in connection with this funding agreement award, and from any and all claims and losses accruing or resulting to any

person, firm or corporation who may be injured or damaged by the Awardee in the performance of work under this award.

8. Review and Disclaimer. Review by the Commission of the design, operation, or maintenance of Awardee's project or related interconnection or generation facilities shall not constitute any representation as to the economic or technical feasibility, operational capacity or reliability of such facilities. Awardee shall in no way represent to any third party that the Commission's review of Awardee's project is a representation by the Commission as to the project's economic or technical feasibility, operational capability, or reliability. Awardee is solely responsible for its project's economic and technical feasibility, operational capability, and reliability.
9. Project Schedule. Awardee shall complete the project milestones by the dates identified in the Project Schedule, attached hereto and incorporated by reference, or the Commission-approved changes or delays thereto. Failure to do so may result in Awardee's funding award being canceled or reduced for cause as specified in the NOA.
10. Eligibility Status. Awardee has provided evidence of project eligibility as specified in the NOA and must continue to be eligible to receive funding under this Agreement. Failure to do so may result in Awardee's funding award being canceled or reduced for cause as specified in the NOA.
11. Bid Bond Forfeiture. Awardee acknowledges that its bid bond may be forfeited in whole or in part for failure to meet project milestones pursuant to the Renewable Guidelines and the NOA.
12. Funding Award Cancellation. Awardee acknowledges that its funding award or funding award payments may be reduced or canceled for cause pursuant to the Renewable Guidelines and the NOA.
13. Funding Award Payments. Awardee acknowledges that its eligibility to receive funding award payments under this Agreement shall be contingent upon its satisfaction of all terms and conditions set forth in the Renewable Guidelines, the NOA and this Agreement, including construction and operation of the project as described in the Project Description attached hereto.
14. Reporting. Awardee acknowledges its obligation to submit quarterly progress reports as specified in the Renewable Guidelines and the NOA.
15. Invoicing. Awardee shall invoice for payments under this Agreement in accordance with the procedures specified in the applicable Renewable Guidelines.
16. Records Retention. Unless stated otherwise in the applicable Renewable Guidelines, Awardee shall:
 - keep all records relating to and verifying the accuracy of information stated in an invoice for payment submitted pursuant to this Agreement for a period not less than three years after the end of the calendar year in which payment for the invoice is made;
 - keep all records relating to and verifying the accuracy of information stated in a report submitted to the Commission pursuant to the Renewable Guidelines for a period not less than three years after the end of the calendar year in which the report is submitted; and

- keep all records relating to and verifying the overall usage, on a total energy input basis, of all fossil fuels and non-fossil fuels used to generate electricity in a given calendar year for a period not less than four years after the end of that calendar year.

17. Awardee Contact. Awardee's Contact under this Agreement shall be _____. Any notice to Awardee under this Agreement shall be forwarded to the Awardee contact at the following address:

18. Commission Contact. The Commission's contact under this Agreement shall be _____. Any notice to the Commission under this Agreement shall be forwarded to the Commission contact at the following address:

California Energy Commission
Ninth Street, MS-____
Sacramento, California 95814
Attn: _____

19. CEQA Review. The Commission has reviewed the _____ project and finds that:

- the project has complied with CEQA, or
- the project is exempt from CEQA under _____, or
- the project is subject to a formal environmental study under the California Environmental Quality Act (CEQA) and/or the national Environmental Quality Act (NEPA), and that _____ is the Lead Agency responsible for conducting a formal environmental study and preparing related environmental documents. Commission approval of this Funding Award Agreement is expressly conditioned on this lead agency's CEQA study and approval of the project. Awardee shall provide Commission staff with a copy of the lead agency's environmental documents once prepared and finalized, and proof of the agency's approval of the project as part of completing milestone #__ as identified in the attached Project Award Package. Awardee acknowledges that its failure to secure project approval by the _____ lead agency will result in the cancellation of this Funding Award Agreement and Awardee's funding award from the New Renewable Resources Account.

20. Understanding of Renewable Guidelines and Their Application. Awardee warrants that it has read and understands the Commission's Renewable Guidelines applicable to the New Renewable Resources Account, and acknowledges that these guidelines govern the payment of any funds under this Agreement and authorize the Commission to cancel or reduce Awardee's funding award or funding award payment for reasonable cause, to conduct random audits of Awardee's invoices, to conduct inspections of Awardee's facilities and books as part of these audits, to initiate enforcement actions to recover any funding award payments the Awardee was not otherwise entitled to receive, to initiate investigations of Awardee to verify fraud or misrepresentation in connection with Awardee's application for or receipt of its funding award or a funding award payment, or to take action as otherwise authorized by the Renewable Guidelines to properly administer the Renewable Resource Trust Fund. Awardee further understands that the Commission's Renewable Guidelines are subject to change and that any changes made to the

Renewable Guidelines shall apply to Awardee and its funding award under this Agreement.

21. Law Governing. This Agreement shall be interpreted, governed and construed under the laws of the State of California.

Signature Blocks of Authorized Representative for Project and the Commission

ENGINEER'S CERTIFICATION OF ON-LINE OPERATIONS

I, _____ (Name of Engineer), am a Professional Engineer registered to practice in the State of California. I have substantial experience in the design, construction, and operation of electric power plants similar to the _____ ("facility"), operated by _____ (name of operator, "Operator") and sited at _____ (location of facility) in _____ (County), State of California.

I have made a physical inspection of said facility and reviewed its operating records and Operation and Maintenance (O&M) Policies. Based on my inspection of the facility and review of its operating records and O&M Policies, it is my professional opinion that:

1. the entire facility is in good operating condition;
2. the entire facility is fully capable of generating at or above 85% of its designed capacity of _____ (kW) as specified in the Operator's Project Description included as part of its bid to Notice of Auction _____;
3. if applicable, the entire facility uses no more than 25% fossil fuel to satisfy its total fuel input needs, as determined on a total energy input basis calculated over the preceding _____ (period of time); and
4. the entire facility can reasonably be expected to continue producing at or near its designed electrical capacity for at least five (5) years given its O&M Policies.

I have no economic relationship to the entity or entities that designed or constructed said facility and have made my analysis of the facility's operation independently.

I hereby CERTIFY that the above statements are complete, true, and accurate to the best of my knowledge and I therefore set my hand and seal below.

Signed and Sealed

Affix P.E. Stamp

Date: _____

Signature: _____